

November 2, 2007

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

**Amendment of Title 22, California Code of Regulations
Section 2708(c)-1**

PAID FAMILY LEAVE ACCEPTABLE DOCUMENTATION

Notice of Proposed Rulemaking

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), title 22, section 2708(c)-1, to ensure that proper documentation is provided to support a Paid Family Leave (PFL) claim for bonding with a new minor child.

The Department will adopt these regulations after considering all comments, objections, or recommendations regarding the proposed regulatory action.

Informative Digest/Policy Statement Overview:

The enactment of Senate Bills (SB) 1661 (Chapter 901, Statutes 2002) and SB 727 (Chapter 797, Statutes 2003) established the Family Temporary Disability Insurance (FTDI) program, known as the PFL program, within the existing State Disability Insurance (SDI) program. The FTDI benefit provides partial wage replacement to workers taking family care leave and is administered by the Department in accordance with the provisions of Part 2 (commencing with section 2601) of the California Unemployment Insurance Code (code).

FTDI benefits are provided to workers who are unable to perform their regular or customary work when they are either providing care for a seriously ill child, spouse, parent, registered domestic partner or bonding with a new minor child and are determined to be eligible for such benefits. The FTDI benefit became payable for claims beginning on and after July 1, 2004. Regulations and procedures for determining eligibility for FTDI benefits became operative on July 1, 2004. The intent of the regulations is to ensure that proper documentation is provided to support a PFL claim for bonding with a new minor child.

Under code sections 305 and 306, the Department is authorized to adopt, amend, or repeal regulations for the administration of the functions of the Department. Under code sections 2625, 2706, and 2708, SDI benefits are payable from the Disability Fund to individuals who file a claim for benefits in accordance with authorized regulations and are eligible to receive such benefit payments.

The proposed amendments to CCR, title 22, section 2708(c)-1, are necessary to clarify the documentation requirements for determining eligibility for FTDI benefits in response to claims for taking family care leave to bond with a new minor child.

The following proposed amendments to CCR, title 22, section 2708(c)-1, will:

- More clearly articulate what constitutes acceptable documentation,
- Provide the Department with the flexibility to use discretion when determining a claimant's eligibility for FTDI benefits, and
- Allow the Department to continue to maintain the integrity of the program.

The proposed amendments will address the above three bulleted items.

Authority and Reference:

Authority: Sections 305 and 306, Unemployment Insurance Code.

Reference: Sections 2706 and 2708, Unemployment Insurance Code.

Fiscal Impact:

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: The Department does not anticipate the proposed amendments will result in any costs to the federal government, to State government, to local county governments, to private individuals, or businesses or small businesses. Thus, no costs were shown on the Economic and Fiscal Impact Statement.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states because the amendments make only clarifying changes to current regulations and provide necessary examples to support those changes. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed amendments.

Anticipated impact on housing costs: The proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies:

None

Small Business Impact:

The Department has determined that the proposed amendments will have no effect on small businesses because they do not impose any new mandates on small businesses.

Local Mandate Determination:

The Department has determined that the proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Consideration of Alternatives:

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than December 17, 2007, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

Contact Persons

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
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800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712
Fax No.: (916) 654-9069
E-Mail Address: eddlegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst
Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Kristi Beckley, Staff Counsel
Telephone No.: (916) 654-8410

Internet Website Access

The Department has posted on its internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

Public Hearing:

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on December 17, 2007.** A request for hearing can be made by contacting the persons noted above.

Modification of Proposed Action:

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

Final Statement of Reasons:

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

Further Information:

The Department has prepared and has available for review, upon request, the text of the proposed regulations discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the proposed regulations; and the information upon which the Department relied in proposing the regulations. (If you received this notice by mail, a copy of the text of the proposed regulations and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.
